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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,709	01/22/2004	Albert Hartman	20012.01.CON	7656

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The Law Office of Steven G. Roeder
5560 Chelsea Avenue
La Jolla, CA 92037

EXAMINER

WAKS, JOSEPH

ART UNIT PAPER NUMBER

2834

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/763,709

Applicant(s)

HARTMAN ET AL.

Examiner

Joseph Waks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-40 is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-26 and 29 is/are rejected.
- 7) ☒ Claim(s) 13, 14, 27 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0104.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujisawa (JP 58156235 A).

Fujisawa discloses a power source having a stator component 1, a rotor component 2 moved by the user, and a control system 4, 5 receiving the electrical energy and electronically controlling the level of an output electrical energy to the object, and an internal energy storage 16, wherein the control system selectively directs the power to the storage system or bypasses the storage system via switch 28 directly to the object.

The housing and the stator component coupled to the housing are inherent to the rotary generators, alternators and dynamos serving as power sources.

3. Claims 1-8, 12, 19-26, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Baylis (US 5,917,310).

Baylis discloses a power source having stator and rotor components 20 moved by the user, a control system receiving the electrical energy and electronically controlling the level of an output electrical energy to the object by controlling the output current and voltage.

The housing and the stator component coupled to the housing are inherent to the rotary generators, alternators and dynamos serving as power sources.

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4. Claims 1, 3, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Sony Corp. (JP 2000287499 A).

Sony Corp. disclose a power source having a housing, a stator component 18 coupled to the housing and a rotor component 16 moved by the user, a control system 32 receiving the electrical energy and electronically controlling the level of an output electrical energy to the object by controlling the output voltage and a crank 9 with a handle 10, 11.

The housing and the stator component coupled to the housing are inherent to the rotary generators, alternators and dynamos serving as power sources.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sony Corp. (JP 2000287499 A) in view of Taylor (US 5,496,238).

Sony Corp. discloses the power source essentially as claimed. However, Sony Corp. does not disclose the crank assembly including first and second pedal.

Taylor discloses the crank assembly including first and second pedal 16, 16' driving electrical generator (Re column 15, lines 30-46) for the purpose of driving the generator using human feet, wherein the required crank torque is supplied from each leg independently.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the power source as taught by Sony Corp. and to provide the crank

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assembly including first and second pedals as taught by Taylor for the purpose of driving the generator using human feet, wherein the required crank torque is supplied from each leg independently.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sony Corp. (JP 2000287499 A).

Sony Corp. discloses the claimed invention except for the power source combination including a plurality of power sources as recited in claim 1 electrically connected to the object.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the power source combination including a plurality of power sources as recited in claim 1 for the purpose of increasing the power load by combining the mechanical input from several users, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Allowable Subject Matter

8. Claims 30-36 are allowed.

Re claims 30-36, the feature of the a control system receiving the electrical energy and electronically sensing the level of the input electrical energy required by the object, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

9. Claims 37-40 are allowed.

The feature of the power source displaying of a plurality of characters providing the status of charging of the object or graphics helping the user in moving the rotor component, in

combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

10. Claims 13, 14, 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The feature of the power source displaying of a plurality of characters providing the status of charging of the object or graphics helping the user in moving the rotor component, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

Double Patenting

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. Claims 2, and 3 are provisionally rejected under the judicially created doctrine of double patenting over claim 53 of copending Application No. 10/226,373. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application

since the referenced copending application and the instant application are claiming common subject matter, as follows: a power source powered by user including a housing, a stator component coupled or secured in the housing a, a rotor component being moved relatively to the stator component by the user to generate electrical energy, and a control system receiving the electrical energy and electronically controlling the output current and/or the output voltage.

The feature of the electronically controlled level of the output electrical energy is a result of the controlled current and/or voltage and therefore is inherent to the disclosed system.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

13. Claim 5 is provisionally rejected under the judicially created doctrine of double patenting over claim 1 of copending Application No. 10/226,373. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: a power source powered by user including a housing, a stator component coupled or secured in the housing a, a rotor component being moved relatively to the stator component by the user to generate electrical energy, and a control system receiving the electrical energy and electronically controlling the amount of torque required to rotate the rotor.

The feature of the electronically controlled level of the output electrical energy is a result of the controlled current and/or voltage and therefore is inherent to the disclosed system.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Prior Art

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (571) 272-2037. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren E Schuberg can be reached on (571) 272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph Waks
Primary Examiner
Art Unit 2834

5/12/04